

STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of)	CEASE AND DESIST ORDER
)	AND NOTICE OF
Larry M. Atkins,)	OPPORTUNITY FOR HEARING
NPN 651982,)	
)	CASE NO. AG-08-216
Respondent.)	

TO: Larry M. Atkins, 3211 Flechtner Drive, Fargo, ND 58103, and 4769 Woodhaven Street South, Fargo ND 58104

Commissioner of Insurance Adam W. Hamm (hereinafter "Commissioner") has determined as follows:

1. N.D.C.C. § 26.1-01-03.1 authorizes the Commissioner to issue an Order to cease and desist when it appears that any person or business entity is or has engaged in an act or practice which violates or may lead to a violation of the North Dakota Century Code.

2. N.D.C.C. Chapter 26.1-26 regulates the licensing of insurance producers.

3. Larry M. Atkins, NPN 651982 (hereinafter "Respondent"), is presently and has been at all times pertinent to this action a licensed North Dakota insurance agent.

4. N.D.C.C. § 26.1-26-42 states, in part:

The commissioner may suspend, revoke, place on probation, or refuse to continue or refuse to issue any license issued under this chapter if, after notice to the licensee and hearing, the commissioner finds as to the licensee any of the following conditions:

...

6. In the conduct of affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown oneself to be incompetent, untrustworthy, or financially irresponsible.

...

10. An improper withholding of, misappropriating of, or converting to one's own use any moneys belonging to policyholders, insurers, beneficiaries, or others received in the course of one's insurance business.

5. N.D. Admin. Code § 45-02-02-14.1 states:

45-02-02-14.1. Client loans to licensed producers and consultants prohibited - Exceptions. A licensed insurance producer or consultant may not solicit or accept a loan from an individual with whom the insurance producer or consultant came into contact in the course of the person's insurance business, or sold an insurance policy to, within the past ten years. This does not prohibit a licensed insurance producer or consultant from accepting loans from financial institutions; immediate family members, which shall mean only a spouse, parents, siblings, and children; or other loans upon the prior written approval of the insurance commissioner.

6. The Commissioner of Insurance for the State of North Dakota has come into information which alleges that Respondent has knowingly and intentionally engaged in the conduct of deceit and fraud against residents of the State of North Dakota in his actions of accepting money and converting to his own use moneys belonging to several insurance clients.

7. On November 1, 1985, Respondent sold a life insurance policy to Ernest Carter. The policy continued in effect from that time to at least November 1, 2005, and Respondent continued to act as Mr. Carter's insurance agent during the course of events described in this order. On March 1, 1996, Respondent accepted approximately

\$26,000 from Mr. Carter. After that time, Respondent accepted from Mr. Carter approximately \$20,000 on December 6, 1996; \$20,000 on October 9, 1996; \$8,000 on November 24, 1997; \$26,000 on November 1, 1997; \$11,500 on May 8, 1998; \$9,500 on May 8, 1998; \$31,000 on June 5, 2000; \$9,000 on June 5, 2000; \$40,000 on June 7, 2002; \$5,000 on September 3, 2002; \$10,000 on June 14, 2004; and \$26,000 on October 18, 2007. The Respondent issued promissory notes to Mr. Carter as follows: on July 20, 1995, in the amount of \$10,600 with interest at the rate of 7.75 percent per annum payable annually; on December 7, 1995, in the amount of \$25,000 with interest at the rate of 6.75 percent per annum payable annually; on June 1, 1996, in the amount of \$26,000 with interest at the rate of 7.25 percent per annum; on June 7, 2002, in the amount of \$40,000 with interest at the rate of 8.75 percent per annum payable annually; and on June 18, 2006, in the amount of \$10,000 with interest at the rate of 7.25 percent per annum payable annually.

Copies of Respondent's promissory notes and the checks he received from Mr. Carter are attached as Exhibit 1.

Respondent applied the money received from Mr. Carter to his own personal use as a loan. Respondent sold insurance to Mr. Carter or came into contact with Mr. Carter in the course of the Respondent's insurance business within the past 10 years. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D.C.C § 26.1-26-42(6) and (10).

8. On or before January 1, 2004, Respondent sold insurance to Patricia A. Merritt. On or about September 2, 2006, Respondent accepted approximately \$25,590

from Ms. Merritt. On September 2, 2006, Respondent issued a promissory note to Ms. Merritt in the amount of \$25,590 with interest at the rate of 8.1 percent per annum payable annually.

A copy of the promissory note issued by Respondent to Ms. Merritt and evidence of the sale of insurance to her are attached as Exhibit 2.

Respondent applied the money received from Ms. Merritt to his own personal use as a loan. Respondent had sold insurance to Ms. Merritt or come into contact with her in the course of the conduct of his insurance business within the past 10 years. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D.C.C. § 26.1-26-42(6) and (10).

9. On or before January 1, 2007, Respondent sold an annuity to Gail S. Tillotson. On or about December 31, 2007, Respondent accepted approximately \$37,520 from Ms. Tillotson. On or about December 31, 2007, Respondent issued a promissory note to Ms. Tillotson in the amount of \$37,520 with interest at the rate of 7.4 percent per annum payable annually. Respondent applied the money received from Ms. Tillotson to his own personal use as a loan.

A copy of the promissory note and evidence of the insurance secured through Respondent are attached as Exhibit 3.

Respondent sold insurance to Ms. Tillotson within the 10 years prior to December 2007. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his

insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D.C.C. § 26.1-26-42(6) and (10).

10. On or about May 21, 1991, Respondent sold insurance to Wayne Champ. The insurance policy was in effect at least through March 21, 2005. Respondent accepted the following amounts from Mr. Champ and issued promissory notes to Mr. Champ as follows: on July 27, 2007, in the amount of \$124,630 with interest at the rate of 7.6 percent per annum payable annually; on July 27, 2007, in the amount of \$68,650 with interest at the rate of 7.6 percent per annum payable annually; on July 21, 2005, in the amount of \$122,260 with interest at the rate of 7.25 percent per annum payable annually; and on April 21, 2005, with interest at the rate of 7.25 percent per annum payable annually.

A copy of the promissory notes issued by Respondent to Mr. Champ and evidence of the sale of his insurance to Mr. Champ are attached as Exhibit 4.

Respondent applied the money received from Mr. Champ to his own personal use as a loan. Respondent had sold insurance to Mr. Champ or came into contact with him during the course of his insurance business within the 10 years prior to April 2005. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D.C.C. § 26.1-26-42(6) and (10).

11. Respondent's conduct constitutes violations of N.D. Admin. Code § 45-02-02-14.1 and N.D. C.C § 26.1-26-42(6) and (10).

NOW, THEREFORE, IT IS HEREBY ORDERED pursuant to N.D.C.C. § 26.1-01-03.1 that Respondent, whether acting in the State of North Dakota as an insurer, a risk

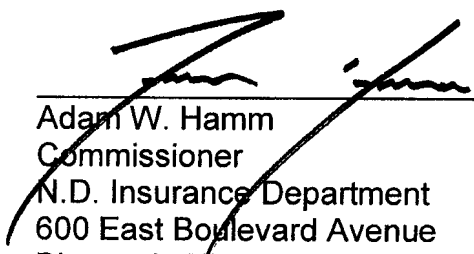
retention group, a purchasing group, an insurance producer, or otherwise engaging in the business of insurance, either directly or indirectly through named and unnamed persons, entities, agents, or otherwise, shall immediately **CEASE AND DESIST** from soliciting, transacting, or otherwise engaging in the business of insurance with residents of the State of North Dakota.

RESPONDENT IS FURTHER ORDERED to **CEASE AND DESIST** from withdrawing any moneys or other thing of value from any banking or other financial accounts; and from disposing of, selling, encumbering, or otherwise dissipating any of his assets, or assets in which he has any ownership interest.

IT IS FURTHER ORDERED pursuant to N.D.C.C. § 26.1-01-03.1 that Respondent may make a written request for a hearing on this matter within 30 days of the date of this Order.

If the Respondent fails to request a hearing in writing within 30 days after being served with a copy of this Cease and Desist Order, the Commissioner shall make the Cease and Desist Order permanent, as the facts require.

DATED this 25th day of April, 2008.



Adam W. Hamm
Commissioner
N.D. Insurance Department
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Bismarck, ND 58505
(701) 328-2440